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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 352 and 361

RIN 3064-AE35

Nondiscrimination on the Basis of Disability Minority and Women Outreach Program Contracting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final Rule.

SUMMARY: The FDIC is updating its regulations, Nondiscrimination on the Basis of Disability, and Minority and Women Outreach Program Contracting, to reflect a name change from the Agency's Office of Diversity and Economic Opportunity (ODEO) to the Office of Minority and Women Inclusion (OMWI).

DATES: This final rule will become effective on [insert date of publication.]

FOR FURTHER INFORMATION CONTACT: Melodee Brooks, Senior Deputy Director, Office of Minority and Women Inclusion, (703) 562-6090; or Robert Lee, Counsel, Legal Division, (703) 562-2020, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429-0002.

SUPPLEMENTARY INFORMATION:

I. Background

Following a recent review, the FDIC is updating 12 CFR Parts 352 and 361 to reflect a name change from the FDIC Office of Diversity and Economic Opportunity to the FDIC Office of Minority and Women Inclusion.

Part 352 is the FDIC's regulation on nondiscrimination on the basis of disability and is intended to implement sections 504 and 508 of the Rehabilitation Act of 1973, as amended. Section 504 prohibits discrimination on the basis of disability in programs and activities conducted by a federal executive agency. Section 508 requires federal agencies to utilize electronic and information technology that is designed to allow individuals with disabilities access that is comparable to the access of those who are not disabled, unless such agency would incur an undue burden. Subsections 352.9(b) and 352.10 set forth information that is no longer accurate, as the Office of Diversity and Economic Opportunity's responsibilities and employees were transferred to the Office of Minority and Women Inclusion, a new office established by the FDIC Board of Directors pursuant to Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act). Section 342 of the Act is codified at 12 U.S.C. 5452. The remaining contact information for OMWI remains the same as that of the predecessor office – 3501 N. Fairfax Drive, Arlington, VA 22226; (877) 275-3342 or (703) 562-2473 (TTY).

Part 361 established in regulatory form the FDIC's Minority and Woman Outreach Program (MWOP) to ensure that minority- and women-owned businesses (MWOBs) are given the opportunity to participate fully in all contracts entered into by the FDIC as it is the FDIC's policy that minorities and women, and businesses owned by them have the maximum practicable opportunity to participate in contracts awarded by the FDIC. Subsections 361.5 and 361.6(a) set forth information that is no longer accurate, as the Office of Diversity and Economic Opportunity's responsibilities and employees have been transferred to the Office of Minority and Women Inclusion.

II. Final Rule

The final rule for parts 352 and 361 updates the name of the FDIC Office of Diversity and Economic Opportunity (ODEO) to the FDIC Office of Minority and Women Inclusion (OMWI). The amendments are procedural and non-substantive in nature, and would update the regulations to be consistent with the FDIC's practices and procedures. The revisions to each of the sections cited below in the List of Subjects simply reflect the change in office name.

III. Exemption from Public Notice and Comment

Section 553 of the Administrative Procedure Act (APA)(5 U.S.C. 553) sets forth requirements for providing the general public notice of, and the opportunity to comment on, proposed agency rules. However, unless notice or hearing is required by statute, those requirements do not apply:

- (A) To interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice; or
- (B) When the agency for good cause finds (and incorporates the findings and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b).

The FDIC is updating parts 352 and 361 to reflect a name change from the FDIC Office of Diversity and Economic Opportunity to the FDIC Office of Minority and Women Inclusion. Since the changes relate to agency organization, procedure, or practice, and because the FDIC has determined for good cause that public notice and comment are unnecessary, the rules are being published in final form without public notice and comment.

IV. Effective Dates

Section 553 of the APA provides that a regulation shall not be made effective less than 30 days after its publication in the **Federal Register** except, among other things, upon a finding of "good cause" by the agency. (5 U.S.C. 553(d)). The FDIC finds that there is good cause to make the amendments to parts 352 and 361 effective immediately upon publication in the **Federal Register** because the name change from the Office of Diversity and Economic Opportunity (ODEO) to the Office of Minority and Women Inclusion (OMWI) is procedural and non-substantive.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. (5 U.S.C. 603 and 604). As noted previously, the FDIC has determined that it is unnecessary to publish a notice of proposed rulemaking for the final rule amending part 352. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply to this rulemaking for parts 352 and 361.

VI. The Paperwork Reduction Act

The final rule for parts 352 and 361 does not contain any requirements for the collection of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

VII. The Treasury and General Government Appropriations Act, 1999 – Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the final rule for parts 352 and 361 will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105-277, 112 Stat. 2681).

VIII. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the final rule for parts 352 and 361 is not a "major rule" within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)(Title II, Pub. L. 104-121). As required by SBREFA, the FDIC will file appropriate reports with Congress and the Government Accountability Office so that the final rule for parts 352 or 361 may be reviewed.

List of Subjects

12 CFR Part 352

Nondiscrimination on the basis of disability, Access to electronic and information technology, Employment, Communications.

12 CFR Part 361

Minority and Women Outreach Program Contracting.

Authority and Issuance

For the reason set forth in the preamble, parts 352 and 361 of Chapter III of title 12 of the Code of Federal Regulations are amended as follows:

PART 352 – NONDISCRIMINATION ON THE BASIS OF DISABILITY

1. The authority citation for part 352 continues to read as follows:

Authority: 12 U.S.C. 1819(a), 29 U.S.C. 794d.

§ 352.9 [Amended]

2. Amend §352.9(b) by removing the term “Office of Diversity and Economic Opportunity (ODEO)” and adding in its place “Office of Minority and Women Inclusion (OMWI)”.

§ 352.10 [Amended]

3. Amend §352.10:

a. In paragraph (c) by removing the term “Office of Diversity and Economic Opportunity” and adding in its place “Office of Minority and Women Inclusion” wherever it occurs and by removing the term “ODEO” and adding in its place “OMWI” wherever it occurs; and

b. In paragraphs (e) introductory text, (g), (h), and (i) by removing the term “ODEO” and adding in its place “OMWI” wherever it occurs.

PART 361 – MINORITY AND WOMEN OUTREACH PROGRAM CONTRACTING

4. The authority citation for part 361 continues to read as follows:

Authority: 12 U.S.C. 1833e.

§ 361.5 [Amended]

9. Amend §361.5, in paragraph (a), by removing the term “Office of Diversity and Economic Opportunity (ODEO)” and adding in its place “Office of Minority and Women Inclusion (OMWI)” and in paragraphs (a) and (b), by removing the term “ODEO” and adding in its place “OMWI”.

§ 361.6 [Amended]

10. Revise §361.6(a) by removing the term “ODEO” and adding in its place “OMWI” wherever it occurs.

Dated this 13th day of October, 2015.
Federal Deposit Insurance Corporation

Robert E. Feldman
Executive Secretary